

REMARKS

As an initial matter, Applicants would like to thank the Examiner for indicating the allowability of the subject matter of claims 9, 11, and 14-15. However, because Applicants believe that independent claim 7 as written is patentable over the cited reference, Applicants do not rewrite claims 9, 11, and 14-15 at this time.

Comment on Statement of Reasons for Indication of Allowable Subject Matter

Applicants provide the following comments on the Examiner's statement of reasons for the indication of allowable subject matter. The Examiner stated that "the prior art fails to teach or suggest the specific structure for translating movement between the pipetter and plunger which includes two rocker arms, stop rod, the stop rod being connected to and positioned between the two rocker arms and also being connected to the pipetter, such that the stop rod moves with the pipetter." Applicants respectfully note that each allowed claim does not include and/or is not limited to the structure set forth in the Examiner's statement.

With respect to claims 9, 14, and 15, Applicants disagree that the claims are limited to a structure with the stop rod being connected to the pipetter, such that the stop rod moves with the pipetter. Claim 9, from which claims 14 and 15 depend, recites "the stop rod also being connected to the *pipetting-needle carrier*, such that the stop rod moves with the *pipetting needle carrier*." (Emphasis added).

With respect to claim 11, the claim does not recite two rocker arms and a stop rod or any of the other limitations associated with the two rocker arms and the stop rod. Accordingly, Applicants assert that the Examiner's statement of reasons for the indication of allowable subject matter, as written, do not apply at all to claim 11.

Comment on § 102(b) Rejection

In the Office Action of April 1, 2003, claims 7, 8, and 10 were rejected under 35 U.S.C. § 102(b) as being anticipated by Clark et al. (U.S. Patent No. 5,578,494) ("Clark"). Applicants respectfully traverse this rejection.

Independent claim 7 recites, among other things, "an automatic conveyor for moving the reagent container relative to the plunger, wherein the conveyor is movable in a first direction to place the plunger in a position to open the stopper, and wherein the conveyor is movable in a second direction, opposite to the first direction, to place the plunger in a position to close the stopper." Clark does not disclose the claimed invention.

Clark discloses a cap actuator system 464 having a housing 466 with a bracket 470 for fixing the cap actuator station 464 above the reagent carousel 32. Clark further discloses the cap actuator station 464 having opening pins 472 in a pin block 473 that are actuated downwardly against the tab lever 454(b) to flip the cap 454 from the closed position in Fig. 35 to the open position in Fig. 34, and a cap actuator 474 that is dragged along the top of the cap 454 to force it down to the closed position. (Col. 45, lines 37-59). Clark does not disclose the claimed invention because two different elements are used to open and close the cap, rather than a single element as recited in independent claim 7. In fact, Clark explicitly discloses that the reagent carousel 32 rotates the desired reagent containers 441 to an opening position below the cap actuator station 464 so the opening pins 472 can open the cap 454, and then rotates the reagent containers 441 to a locking position that **avoids contact with the opening pins 472.** Additionally, Clark does not disclose which directions the carousel moves the reagent


containers in order to place them in the opening and closing position as required by independent claim 7. Accordingly, because Clark does not disclose the claimed invention, Applicants respectfully request the allowance of independent claim 7 and its dependent claims 8-11 and 14-15.

Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: August 20, 2003

By: 
Michael W. Kim
Reg. No. 51,880

FINNEGAN
HENDERSON
FARABOW
GARRETT &
DUNNER LLP

1300 I Street, NW
Washington, DC 20005
202.408.4000
Fax 202.408.4400
www.finnegan.com